

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHARLES L. JONES,)
)
Petitioner,)
)
vs.) Case No. 4:09CV1656 HEA
)
MICHAEL BOWERSOX,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the remand from the Eighth Circuit Court of Appeals for consideration in light of *Tiedeman v. Benson*, 122 F.3d 518 (8th Cir. 1997).

In its Opinion, Memorandum and Order of March 29, 20011 the Court inadvertently failed to address whether a certificate of appealability should issue.

The federal statute governing certificates of appealability provides that “[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, and the law as discussed in Judge Noce’s Report and Recommendation, the Court finds that Petitioner has not

made a substantial showing of the denial of a constitutional right.

Accordingly,

IT IS HEREBY ORDERED that a certificate of appealability will not issue in this matter.

Dated this 26th day of April, 2011.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE